

-PS-O-

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JAMES MARSH,

Plaintiff,

-v-

C.O. BELLINGER, et al.,

Defendants.

06CV464

ORDER

On February 12, 2007, the Court (Hon. William M. Skretny) granted plaintiff's application to proceed in forma pauperis, dismissed two defendants, pursuant to 28 U.S.C. § § 1915(e)(2)(B) and 1915A(b), and directed the Clerk of the Court to cause the U.S. Marshals Service to serve copies of the Summons and Complaint on defendants Bellinger, Hart, Chaffee, Stermer, Taft, Crans, Mackmeyer, Williams, and Pick (Docket No. 8). Plaintiff was later ordered to provide the Court with an address for service of papers (Docket No. 9), which he furnished (Docket No. 10). Following receipt from plaintiff of completed Summons and Marshal Service Forms (Docket Nos. 11, 12), Summonses were issued and the Summonses, copies of the Complaint and Marshal Service Forms were forwarded to the Marshals Service for service on defendants. To date, no return of service has been filed with respect to defendants Bellinger and Hart, and a return of service as to Mackmyer was filed as unexecuted with notations of "RNS"--returned no service--and that there was no individual with the name of "Mackmyer" at the Willard Drug Treatment Facility where service was attempted (Docket No. 13). The other defendants have answered the Complaint (Docket No. 14).

Plaintiff moved for entry of a default judgment against Bellinger, Hart, and Mackmyer (Docket No. 19), which the Clerk's Office did not enter due to the procedural status of these defendants. Plaintiff now moves for an Order directing the Marshals Service to serve defendants Bellinger, Hart, and Mackmyer (Docket No. 22). The Court requests that the New York State Attorney General's Office ascertain proper addresses for these defendants pursuant to Valentin v. Dinkins, 121 F.3d 72 (2d Cir. 1997) (per curiam). The Attorney General's Office need not undertake to defend or indemnify these individuals at this juncture. This Order merely provides a means by which plaintiff may name and properly serve the defendants as instructed by the Second Circuit in Valentin.

The New York State Attorney General's Office is hereby requested to produce the information specified above to the Court's Pro Se Office by **October 9, 2007**. Once this information is provided amended summonses shall be issued and the Court shall direct service on the identified defendants. The Clerk of Court shall send a copy of this Order to Assistant Attorney General Michael A. Siragusa, who has appeared for the other defendants in this action.

Plaintiff's motion for entry of default judgment (Docket No. 19) is **terminated** as moot.

SO ORDERED.

/s/ Hugh B. Scott
Hon. Hugh B. Scott
United States Magistrate Judge

Dated: Buffalo, New York
September 10, 2007